

**Draft Summary of the Plenary Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
February 25, 2003**

The Department of Water Resources hosted a meeting for the Plenary Group on February 25, 2003 in Oroville. A summary of the discussion, decisions made, and action items are provided below. This summary is not intended to be a transcript of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary for interested parties who could not attend the meeting. The following are attachments to this summary:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Process Update
Attachment 5	Meeting Abstracts
Attachment 6	List of Reports Distributed to the Collaborative Prior to December 2002
Attachment 7	Memo from Patrick Porgans to the Collaborative
Attachment 8	FERC Approach to Economics Presentation
Attachment 9	Economic Questions to FERC

Welcome and Introduction

Attendees were welcomed to the Plenary Group meeting and introduced themselves and their affiliations. The meeting agenda and list of meeting attendees are appended to this summary as Attachments 1 and 2, respectively. Meeting flip chart notes are included as Attachment 3. The Facilitator reminded the participants to use the microphones so that those on the telephone could hear. Eric Theiss, representing the National Marine Fisheries Service via telephone, expressed his frustration with the ongoing and unresolved audio difficulties and suggested that DWR purchase a better unit for teleconferencing. Richard Roos-Collins representing American Rivers suggested that DWR and Eric discuss alternatives for improving the telecommunication arrangements off-line to resolve the issue. Eric and Rick Ramirez representing DWR agreed to discuss the issue off-line.

The Facilitator informed the group that the meeting was being recorded by a court reporter provided by Patrick Porgans, representing JEM Farms. She reminded the participants that early in the development of Process Protocols, participants agreed that meetings would not be formally transcribed. The group had felt formal minutes would inhibit "free flowing" collaborative brainstorming and discussions. She added that the protocols allow for individuals to record the meetings using their personal equipment. Rick Ramirez added that DWR was hosting the meeting but had no involvement in the use of a court reporter. Ken Kules, representing the Metropolitan Water District of Southern California, asked if the participants would have access to the transcript to review and make corrections. Patrick Porgans answered that he brought the court reporter to accurately record participants' comments. He added that copies of the transcripts would be available on request. Richard Roos-Collins asked if Patrick intended to submit the transcript to the Federal Energy Regulatory Commission (FERC). Patrick replied that a decision had not been made, but if acceptable to the participants, he would provide a copy to FERC. Ken Kules and Richard Roos-Collins indicated that they would prefer the

transcripts not be submitted and asked if any of the participants intended to send them to FERC. No one acknowledged an intention to send the transcripts to FERC.

Frances Kelley, representing Butte County Citizens for Fair Government, wanted to know why there was a court reporter at the public meeting that took place a few weeks ago at the State Theater. The Facilitator clarified that the public meeting held on February 10th was not part of this collaborative relicensing process so it was not subject to the Process Protocols. The February 10th meeting was to gather public comment on shared trail use within the Oroville FERC License 2100 area under the existing license. The Facilitator added that the transcripts from that meeting, along with written comments received by DWR, would be submitted to FERC by DWR.

The participants reviewed the agenda and objectives were discussed. The Facilitator noted that it was a full agenda and added that Jim Fargo with FERC was in attendance to provide the second half of his economics presentation. She reviewed established ground rules for participants and the facilitator and requested that all participants observe them.

Process Update

Where We Are in the Process

Mark Andersen with DWR provided the participants with an update on where we are in the FERC relicensing process. His presentation is included as Attachment 4 to this summary. Mark informed the participants that discussions on Protection, Mitigation, and Enhancement measures (PM&Es), or resource actions, have begun in some of the work groups, and he reminded everyone that a lot of critical work will be necessary in the next few months.

Scoping Document 2

Mark informed the group that Scoping Document 2 would be distributed within the next few days, thereby starting the public review period. He mentioned that DWR had received several helpful comments on the Plenary Group draft copy distributed the previous month.

Meeting Abstracts

The Facilitator pointed out that abstracts covering the work group meetings held since the last Plenary Group meeting are included with the meeting agenda. Abstracts are provided as Attachment 5 to this summary. Participants were informed that complete work group meeting summaries are posted on the relicensing web site.

Action Items – January 28, 2003 Plenary Group Meeting

The Facilitator reviewed the status of the action items from the January 28, 2003 Plenary Group meeting.

Action Item #P112: Provide list of deliverables that pre-date the updates (Pre-December 2002).

Responsible: DWR

Status: The Facilitator distributed a list that includes all the study plan deliverables provided to the collaborative before December 2002. A copy of the list is included as Attachment 6 to this summary.

Action Item #P113: Provide questions regarding FERC approach to economics to Jim Fargo.

Responsible: Facilitator

Status: The Facilitator e-mailed the list of questions to Jim on January 29, 2003.

- Action Item #P114:** Provide comments to Process Task Force on “Resource Action Identification Form”.
- Responsible:** Participants
- Status:** The Facilitator noted that the Process Task Force and Identification Form would be discussed as a later agenda item (see below).
- Action Item #P115:** Comment on modeling summaries to Curtis Creel, DWR.
- Responsible:** Participants
- Status:** As of Friday, January 21, 2003, Curtis had not received any comments. Curtis will accept comments after the due date and is available to respond to any questions participants might have.
- Action Item #P116:** Provide suggestions to address issues related to health of the collaborative. Use Process Protocols as a basis to provide revisions/additions.
- Responsible:** Participants
- Status:** The Facilitator noted that Collaborative Health would be discussed as a later agenda item (see below).
- Action Item #P117:** Submit comments on Scoping Document 2 to DWR via the relicensing web site.
- Responsible:** Participants
- Status:** Ward Tabor stated that DWR received comments from the State Water Contractors and the Metropolitan Water District of Southern California. Suggested changes were factual corrections and provided clarity. Ward reminded the participants that the review period begins with public distribution of the document and provides further opportunity to help guide the environmental documents. The deadline for submitting comments on SD2 is April 28, 2003.

Collaborative Check-Up

The Facilitator began by reminding the participants of Patrick Porgans’ list of questions presented at the last Plenary Group meeting. Patrick distributed a revised memo to Plenary Group members, included as Attachment 7 to this summary. Patrick informed the participants that the comments contained in his memo were not just his thoughts, but were developed by several stakeholders with whom Patrick has met. The first issue discussed was the definition of “consensus” and specifically, who is involved in consensus and how may ‘votes’ each entity has. Another concern raised is that local participation and representation will decrease over time because local stakeholders will be unable to afford to participate in the process. Richard Roos-Collins noted that Patrick identified an unintended ambiguity in the process protocols – is a participant representing an organization or an individual? Richard proposed to define “participant” as an agency, organization, or individual, who intends to join in a written settlement that satisfies Section I.E of the Process Protocols. He also suggested a footnote to Page 1, Section 1 to read “Multiple representatives of a given participant constitute a single participant for the purpose of decision making protocols as established in Section IV.D.” Rick Ramirez acknowledged that DWR would have the most representatives in the process since DWR is the licensee but agreed that Richard’s suggestion clarified the intention of the collaborative. He added that while multiple DWR representatives would continue to attend meetings, DWR would speak with one voice for decision-making purposes.

Ken Kules suggested that if a participant did not intend to sign the Settlement Agreement, they should not participate in the consensus. Harry Williamson, representing the National Park Service, asked if someone joined the collaborative at the end of the process would they have the same weight as the stakeholders that have been involved in the process for several years. Patrick Porgans offered that he would have concerns with someone who joined the group at this late date and wanted to be involved in the Settlement Agreement. He also suggested to the group that DWR represents the State Water Contractors and wanted it understood that no matter what the others might decide, DWR had overriding veto if they can't live with something. Rick Ramirez agreed that DWR needs to be able to live with the decisions made by the collaborative, but pointed out that DWR chose the ALP to gather as much input as possible from interested parties.

Eric Theiss agreed with what he had heard so far but felt that the issue of who gets to vote remains unresolved. Eric reiterated the earlier suggestion of one voting representative per organization or participant. Michael Pierce representing Butte County read a passage from page 13, paragraph 2 of the Process Protocols that defines a participant. Michael said he interprets the passage to mean that if you haven't been actively involved in the relicensing process you do not get to sign the Settlement Agreement.

Ron Davis expressed his concerns on the health of the collaborative and his need for: (1) more meetings; (2) unbiased oversight of the studies; (3) elimination of private negotiations; (4) more up-front discussions, minimize e-mails and other off-line discussion; (5) more accountability for what is said; and (6) more neutrality from the Facilitator.

Patrick Porgans requested the negative polling technique used in the collaborative be replaced with positive polling and the participants further discussed representation and consensus. Jim Fargo suggested that in other ALPs the stakeholders are asked to sign the Process Protocols and expected to understand what they are agreeing to at that time. He reminded the group that the ALP is an alternative to the traditional license process which, had DWR chosen that path, would have resulted in about six meetings to date. Richard Roos-Collins asked to amend his original proposal to use the definition of participant as stated on page 13 of the protocols. Richard suggested adding the footnote to IV.D indicating multiple representatives of a given participant constitutes one participant for the purpose of protocol.

Responding to a concern regarding the ability to participate in consensus by multiple representatives of an organization, Craig Jones representing the State Water Contractors reminded participants that DWR has encouraged and funded the Joint Powers Authority's participation to serve as the focal point for the local input so several individuals are actually being represented by two organizations. Ron Davis noted he is wearing two hats because he is representing an organization and himself. He expects the organization will want to sign the Settlement Agreement as a group and hopes he can sign the agreement as an individual as well. Ken Kules added that there are others besides the SWC that have multiple organizations involved in the process such as Butte County, which is represented by the JPA, water contractors and the local government.

Vince Wong, representing Zone 7 Water Agency, said since he did not have a copy of the protocols to review in light of the suggested revisions, he felt it would be better to discuss revisions at the next meeting. Sonny Brandt representing the JPA said he felt that one participant should get one vote only and not one vote for each organization they represent. Michael Kelley representing Butte County Taxpayers Association was in agreement with

Sonny's statement. Michael Mainz representing the Department of Fish and Game said that the participants need to realize they may not get everything they all want but should work toward an agreement that is close enough that they all can live with it.

The Facilitator mentioned how much time had been spent on this agenda item and the need to stay on schedule. Several participants agreed to continue the discussion of collaborative health at the next Plenary Group meeting. The Facilitator reviewed the language proposed for amending the protocols and suggested the group discuss it with their organizations and be prepared to talk about it at the next meeting.

FERC Approach to Economics

Jim Fargo continued the FERC Approach to Economics presentation he started at the last Plenary Group meeting. A copy of his presentation and the list of questions posed by the collaborative and answers provided by Jim are appended to this summary as Attachments 8 and 9, respectively. Jim indicated that FERC staff considers economic information necessary to answer two economic questions when evaluating license applications: 1) How does the proposed project compare with alternative power sources available to the applicant?; and 2) How much would the proposed PM&E measures cost over the new license period? Costs may include loss in existing power value, cost to build or modify facilities, or operation and maintenance costs incurred by the measure. Jim considers all PM&Es as competing measures and suggested the difficulty lies in accurately describing the significance of the environmental effects on a resource and the public and determining what economic information best aids the decision makers.

Jim provided a brief overview of the general types of analyses used in economic decision-making and suggested that the most popular approach he has seen used by collaborative groups is the Incremental Analysis. Jim added that the Commission is not interested in seeing benefit cost analysis. Harry Williamson asked if there are accepted, documented methodologies that FERC could refer, but Jim responded that since all projects, particularly the multi-purpose ones, are unique FERC doesn't have a standard methodology in use. Jon Ebeling, representing Butte County, asked if it was possible to determine the economic loss on a project and whether a 10 percent discount rate is still used. Jim replied that depending on the applicant, the discount rate could be 7 or 8 percent. Jim also noted that every project brings different issues and it isn't always as simple as power vs. environmental purposes. He pointed out that decisions are emotional, even when they seem neutral or objective, depending more on the personality of the chooser than on unbiased weighing of facts.

Jim indicated that for the Oroville facilities, FERC would likely see two outputs with value: the power produced and the water supplied. Scott Lawrence, representing the Feather River Recreation and Park District commented that the price of power sold today is somewhat regulated but in terms of water sales, how does the economic approach look at the end product user and what is a reasonable cost to pay for water? Jim responded that new PM&E measures put in the license would likely make it more costly to operate the project and he would expect those increases to be borne by the State and passed on to the recipients of the water.

Michael Pierce asked if FERC would look only at the power produced by the Oroville Facilities when evaluating the total power benefit or consider the State Water Project's total power use. Jim agreed that the net usage concept is not appropriate for Oroville and that FERC would look at P2100 as a stand-alone project in terms of power production and use. He added that FERC would not use net benefit; each PM&E measure will be primarily evaluated on the need to

address a given impact. FERC will clearly distinguish between jurisdictional and non-jurisdictional measures and does not referee non-jurisdictional items during settlement discussions. One participant asked if Jim could provide examples of successful ALPs. Jim responded that the Oroville Facilities' ALP has more collaborative involvement than any other he is aware of in California.

The Facilitator mentioned that Roger Masuda, representing Butte County, sent additional questions directly to Jim and asked if the group would receive Jim's responses. Jim stated that he and Roger needed to continue their discussion and then he would provide more information to the group. Pete Soderberg asked that a copy of Roger's latest memo be circulated to the participants. The Facilitator asked Roger to provide her with an electronic copy so she could forward it to the rest of the group.

Jim ended his presentation mentioning a paper he prepared in April 1991 entitled "Evaluating Relicense Proposals at the Federal Energy Regulatory Commission." Jim brought a limited number of copies but informed participants that the paper is available through FERC's web site.

Process Task Force Update

The Facilitator informed the group that they would not have time during the meeting for the update on Process Task Force activities; however, the Plenary Group did receive the Resource Action Identification Form at the January Plenary Group meeting and the only comment received was related to the name of the form. She asked if the Plenary Group could approve the form so stakeholders and work groups could begin using it to prepare their submittals. The Facilitator asked if anyone had heartburn with the form being approved and distributed to the work groups. No participants expressed heartburn with the form and it was approved by consensus of the Plenary Group.

Next Steps

Several participants asked that the Collaborative Check-up discussion be continued at the March 2003 meeting while Patrick Porgans expressed his desire to finish the discussion of his issues tonight. He felt the group could get through the rest of the items rather quickly; however, the group preferred instead to set aside the first two hours of the March agenda to conclude the discussion.

Next Meeting

The Plenary Group agreed to meet on:

Date: March 25, 2003

Time: 10 a.m. to 4 p.m.

Location: Kelly Ridge Golf Course Meeting Room, 5131 Royal Oaks Drive, Oroville, CA

Action Items

The following action items identified by the Plenary Group include a description of the action, the participant responsible for the action, and due date.

Action ItemP#118: Discuss with Eric Theiss the possibility of DWR purchasing better teleconference equipment.

Responsible: DWR/Rick Ramirez

Due Date: As soon as possible

Action ItemP#119: E-mail for review suggested revised language for Process Protocols: add footnote to Page 1, Section 1 to read “Multiple representatives of a given participant constitute a single participant for the purpose of decision making protocols as established in Section IV.D.”

Responsible: DWR

Due Date: March 18, 2003

Action ItemP#120: Memo from Roger Masuda to Jim Fargo relating additional economic questions to Plenary Group Participants.

Responsible: Facilitator

Due Date: March 14, 2003

Action ItemP#121: Provide written responses to additional questions received from Roger Masuda.

Responsible: Jim Fargo/FERC

Due Date: March 25, 2003